

INSURANCE CODE
TITLE 13. REGULATION OF PROFESSIONALS
SUBTITLE B. AGENTS
CHAPTER 4052. LIFE AND HEALTH INSURANCE COUNSELORS

SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. [4030](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 4052.001. DEFINITION. In this chapter, "life and health insurance counselor" means a person who:

(1) for compensation, offers to examine or examines a life, accident, or health insurance policy, a health benefit plan, or an annuity or pure endowment contract to give advice or other information regarding:

(A) the policy, plan, or contract terms, conditions, benefits, coverage, or premiums; or

(B) the advisability of:

(i) changing, exchanging, converting, replacing, surrendering, continuing, or rejecting a policy, plan, or contract; or

(ii) accepting or procuring a policy, plan, or contract from an insurer or health benefit plan issuer; or

(2) in any public manner:

(A) uses as a title:

(i) "insurance adviser";

(ii) "insurance analyst";

(iii) "insurance counselor";

(iv) "insurance specialist";

(v) "policyholders' adviser";

(vi) "policyholders' counselor"; or

(vii) any other similar title; or

(B) uses any other title indicating that the person gives or is engaged in the business of giving advice or other information to an insured, a beneficiary, or any other person

having an interest in a life, accident, or health insurance policy, a health benefit plan, or an annuity or pure endowment contract.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. [4030](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 4052.002. USE OF CERTAIN TITLES NOT PROHIBITED. This chapter does not prohibit a person who, through the completion of a course of instruction recognized in the business of insurance, is designated as a chartered life underwriter (CLU), chartered financial consultant (ChFC), or certified financial planner (CFP) from using that designation to indicate professional achievement. Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. [4030](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 4052.003. APPLICABILITY OF OTHER LAW. Except as provided by this chapter, the provisions of this title that apply to the licensing and regulation of agents apply to the licensing and regulation of a life and health insurance counselor. Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. [4030](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 4052.004. EXEMPTIONS. This chapter does not apply to:

- (1) a licensed agent for a life insurance company while acting as an agent for the company;
- (2) a licensed attorney at law of this state while acting in the course or scope of the attorney's profession;
- (3) a licensed public accountant of this state while acting in the course or scope of the accountant's profession;

(4) a regular salaried officer or employee of an authorized insurer issuing policies of life or health insurance while acting for the insurer in discharging the duties of the position or employment;

(5) an officer or employee of a bank or trust company who does not receive compensation from a source other than the bank or trust company for activities connected with the position or employment; or

(6) an employer, an employer's officer or employee, or a trustee of an employee benefit plan to the extent that the employer, officer, employee, or trustee is engaged in the administration or operation of an employee benefit program that involves the use of insurance or annuities issued by a legal reserve life insurer.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. [4030](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 4052.005. RULES. The commissioner may adopt rules necessary to implement this chapter and to meet the minimum requirements of federal law, including regulations.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

SUBCHAPTER B. LICENSE REQUIREMENTS

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. [4030](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 4052.051. LICENSE REQUIRED. A person may not act as a life and health insurance counselor unless the person holds a license issued by the department under this chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

The following section was amended by the 87th Legislature. Pending

publication of the current statutes, see H.B. 4030, 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 4052.052. EXAMINATION. (a) An applicant for a life and health insurance counselor license must take an examination administered under Chapter 4002 that includes the following:

- (1) fundamentals of life and health insurance;
- (2) group life insurance, pensions, and health insurance;
- (3) law, trust, and taxation;
- (4) finance and economics; and
- (5) business insurance and estate planning.

(b) The department may not issue a life and health insurance counselor license to a person unless the person has passed each part of the examination.

(c) The department may schedule and give the examination.
Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. 4030, 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 4052.053. APPOINTMENT TO ACT FOR INSURER NOT REQUIRED. An appointment to act for an insurer is not a condition to the issuance of a life and health insurance counselor license.
Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. 4030, 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 4052.054. LIMITS ON ADVERTISING. A life and health insurance counselor may not advertise in any manner and may not circulate materials indicating professional superiority or the performance of professional service in a superior manner.
Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. 4030, 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 4052.055. DUAL COMPENSATION PROHIBITED. A life and health insurance counselor is not entitled to receive compensation for the same service provided to the same client if the counselor:

- (1) holds a license under Chapter 4054; and
- (2) receives compensation for the service as an agent licensed under that chapter.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. 4030, 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 4052.056. ELIGIBILITY FOR NEW LICENSE AFTER REVOCATION. If the department revokes a life and health insurance counselor's license, the license holder is not eligible for a new license until the second anniversary of the revocation date.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.

SUBCHAPTER C. ENFORCEMENT OF COUNSELOR'S AGREEMENT

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see H.B. 4030, 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 4052.101. ENFORCEMENT OF AGREEMENT. A life and health insurance counselor, or a person acting on the counselor's behalf, may enforce an agreement between the counselor and a person, firm, or corporation relating to the services of the counselor only if:

- (1) the agreement is in writing;
- (2) the agreement is executed in duplicate by the person, firm, or corporation to be charged;
- (3) a duplicate is delivered to and retained by the person, firm, or corporation when executed; and

(4) the agreement specifies:

(A) the amount of the compensation paid or to be paid to the counselor; and

(B) the services to be provided by the counselor.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 7, eff. April 1, 2005.